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28960

7590

02/25/2009

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 02/25/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/493,750

01/28/2000

Purnendu Shekhar Ojha

NEXTAG-00308

2623

TITLE OF INVENTION: METHODS AND APPARATUS FOR FACILITATING TRANSACTIONS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	05/26/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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28960 7590 02/25/2009

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE-FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/493,750 01/28/2000 Purnendu Shekhar Ojha NEXTAG-00308 2623

TITLE OF INVENTION: METHODS AND APPARATUS FOR FACILITATING TRANSACTIONS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	05/26/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
POND, ROBERT M	3625	705-026000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

1

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims **SMALL ENTITY** status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming **SMALL ENTITY** status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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09/493,750	01/28/2000	Purnendu Shekhar Ojha	NEXTAG-00308	2623
28960	7590	02/25/2009	EXAMINER	
HAVERSTOCK & OWENS LLP 162 N WOLFE ROAD SUNNYVALE, CA 94086			POND, ROBERT M	
			ART UNIT	PAPER NUMBER

3625
DATE MAILED: 02/25/2009

Determination of Patent Term Extension under 35 U.S.C. 154 (b)

(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

09/493,750

Applicant(s)

OJHA ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to AF(12/24/08): Interview(20090214): Examiner's Amendment(20090214).
2. ☒ The allowed claim(s) is/are 1,4,6-26 and 28-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 12/15/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20090214
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Robert M. Pond/
Primary Examiner, Art Unit 3625

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization

Authorization for this examiner's amendment was given in a telephone interview with Mr. Jonathan Owens #37,902 on 14 February 2009.

Claims Allowed

Claims 1, 4, 6-26 and 28-35 entered 30 July 2008 are allowed. Claim 27 is canceled by Examiner's Amendment. Claims 2, 3, 5 and 27 are canceled.

In the Claims

- Delete claim 1 in its entirety and insert therefore:
 - -1. A method of facilitating server-implemented transactions in a wide area network between a first party and one or more second parties, the method comprising:
 - providing by a transaction server an ask price for a particular product to a first party, wherein the ask price is associated with a particular second party;
 - submitting by the first party a bid price for the particular product of the

particular second party in response to receiving the ask price, wherein the bid price is lower than the ask price;

providing by the transaction server information relating to a transaction between the first party and the particular second party to a third party's computer via the wide area network, the information including the bid price associated with the first party and the ask price associated with the particular second party, wherein any interested entity facilitates consummation of the transaction as the third party via the wide area network; and

transmitting a response from the third party's computer to the transaction server after receiving the bid price and the ask price, the response from the third party one of:

a counteroffer wherein the counteroffer covers at least part of a first difference between the bid price and the ask price, wherein the transaction server transmits the counteroffer to the first party as an ask price; and

an acceptance wherein the acceptance covers the difference between the bid price and the ask price, wherein the transaction server terminates negotiations with one or more second parties for the particular product and completes the transaction.- -

- Delete claim 8 in its entirety and insert therefore:
 - -8. The method of claim 7 wherein transmitting a response from the third party's computer comprises providing at least one active object in the web page associated with the entry.- -

- Delete claim 25 in its entirety and insert therefore:
 - -25. A computer program product for facilitating transactions in a wide area network between a first party and one or more second parties, comprising:
 - at least one computer readable medium; and
 - computer program instructions stored in the at least one computer readable medium for causing at least a transaction server to:
 - provide an ask price for a particular product to a first party, wherein the ask price is associated with a particular second party;
 - submit by the first party a bid price for the particular product of the particular second party in response to receiving the ask price, wherein the bid price is lower than the ask price;
 - provide information relating to a transaction between the first party and the particular second party to a third party's computer via the wide area network, the information including the bid price associated with the first party and the ask price associated with the particular second party, wherein any interested entity facilitates consummation of the transaction as the third party via the wide area network; and
 - transmitting a response from the third party's computer to the transaction server after receiving the bid price and the ask price, the response from the third party one of:
 - a counteroffer wherein the counteroffer covers at least part of a first difference between the bid price and the ask price, wherein

the transaction server transmits the counteroffer to the first party as an ask price; and

an acceptance wherein the acceptance covers the difference between the bid price and the ask price, wherein the transaction server terminates negotiations with one or more second parties for the particular product and completes the transaction.- -

- Delete claim 26 in its entirety and insert therefore:

- 26. A method of facilitating server-implemented transactions in a wide area network between a first party and one or more second parties, the method comprising:

providing by a transaction server an ask price for a particular product to a first party, wherein the ask price is associated with a particular second party;

submitting by the first party a bid price for the particular product of the particular second party in response to receiving the ask price, wherein the bid price is lower than the ask price;

selectively providing by the transaction server information relating to a plurality of bids on a transaction site to a third party's computer via the wide area network, a first one of the bids involving the first party and the second party, the first bid including the bid price associated with the first party and the ask price associated with the particular second party, wherein any interested entity facilitates consummation of the transaction as the third party via the wide area network;

transmitting a response from the third party's computer to the transaction server after receiving the bid price and the ask price, the response from the third party one of:

a counteroffer wherein the counteroffer covers at least part of a first difference between the bid price and the ask price, wherein the transaction server transmits the counteroffer to the first party as an ask price; and

an acceptance wherein the acceptance covers the difference between the bid price and the ask price, wherein the transaction server terminates negotiations with one or more second parties for the particular product and completes the transaction; and

notifying the other of the first party or the second party of the response via the wide area network.- -

- Delete claim 32 in its entirety and insert therefore:

- -32. A method of facilitating server-implemented transactions in a wide area network between a first party and one or more second parties, the method comprising:

providing by a transaction server an ask price for a particular product to a first party, wherein the first ask price is associated with a particular second party;

submitting by the first party a bid price for the particular product of the particular second party in response to receiving the first ask price, wherein the bid price is lower than the ask price;

providing by the transaction server information relating to a plurality of bids

on a transaction site to a third party's computer via the wide area network, the information being of a real-time nature and including the bid price associated with the first party and the ask price associated with the particular second party, wherein the information further comprises one or more of real-time offers, ask prices, counteroffers, time in which offers and counteroffers are made, number and trend of completed transactions, number and trend of incomplete transactions, and transactional history, wherein any interested entity facilitates consummation of the transaction as the third party via the wide area network; and

transmitting a response from the third party's computer to the transaction server after receiving the bid price and the ask price, the response from the third party one of:

a counteroffer wherein the counteroffer covers at least part of a first difference between the bid price and the ask price, wherein the transaction server transmits the counteroffer to the first party as an ask price; and

an acceptance wherein the acceptance covers the difference between the bid price and the ask price, wherein the transaction server terminates negotiations with one or more second parties for the particular product and completes the transaction.- -

In the Drawings

Drawings are objected. Please refer to attached Drawing Review PTO-948.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The field of invention pertains to facilitating transaction between a buyer and one or more sellers over a computer network, and specifically facilitates transactions by permitting a third party to intervene to close a deal between a buyer and a particular seller.

Regarding method claim 1. For negotiations between a buyer and seller, the transaction server provides transaction information to a third party, information being a first party (e.g. buyer) bid price being lower than a second party (e.g. seller) ask price. The transaction server receives a counteroffer from the third party which becomes the ask price for the buyer to consider thereby providing dynamic interaction with the buyer. Should the response from the third party be an acceptance response, the transaction server terminates negotiations with one or more sellers and completes the transaction. Neither the previously cited prior art nor closest prior art noted below alone or in combination with other prior art teach and suggest the combinations of methods as claimed. The claimed invention i) provides dynamic interaction that permits the third party to intervene (counteroffer or acceptance) without relying upon pre-stored subsidies as disclosed by the closest prior art, ii) permits the transaction server to process the

third party response without relying on pre-stored third party subsidies as disclosed by the closest prior art, iii) establishes the mechanism for the buyer to respond to the counteroffer rather than just accept or decline the deal as disclosed by the closest prior art, iv) completes the transaction, v) terminates the ongoing negotiations for the particular product with the particular seller and vi) establishes the mechanism to terminate other ongoing negotiations with other sellers for the particular product by the buyer. The prior art fails to disclose such a combination of methods.

Regarding claims 26 and 32. Allowances are based on the reasons noted above. Method claims 26 and 32 include additional steps rendering them narrower than claim 1. Claim 25 is a tangible embodiment of a computer program that causes the transaction server to perform the claimed method. The claimed method is same as claim 1.

Closest US Patent/US Patent Publication Prior Art

Applicants' arguments on record entered were persuasive pertaining to Walker (US 6,754,636). The search update produced prior art Walker (US 7,039,603) which incorporates Walker '636 in its entirety, but neither alone nor in combination with other prior art teach and suggest the combinations of methods of:

providing by the transaction server information relating to a transaction between the first party and the particular second party to a third party's computer via the wide area network, the information including

the bid price associated with the first party and the ask price associated with the particular second party, wherein any interested entity facilitates consummation of the transaction as the third party via the wide area network; and

transmitting a response from the third party's computer to the transaction server after receiving the bid price and the ask price, the response from the third party one of:

a counteroffer wherein the counteroffer covers at least part of a first difference between the bid price and the ask price, wherein the transaction server transmits the counteroffer to the first party as an ask price; and

an acceptance wherein the acceptance covers the difference between the bid price and the ask price, wherein the transaction server terminates negotiations with one or more second parties for the particular product and completes the transaction.

Walker '603 relies on pre-stored subsidies and thereby fails to provide a dynamic interaction that permits a third party to cover at least a first part of the difference between the bid price and ask price without reliance on pre-stored (by third party or transaction server) subsidies or to issue an acceptance without reliance on pre-stored (by third party or transaction server) subsidies to cover the difference and complete the transaction. Walker fails to disclose the mechanism for dynamic interaction for the buyer to counter a third party counteroffer should it

be required and further fails to account for the situation of terminating other negotiations associated with the particular product by the buyer.

Forward and backward citations of Walker patents failed to produce prior closer than that either alone or in combination with Walker '603 teach and suggest the claimed inventions.

Closest Non-Patent Literature Prior Art

Elkine teaches a buyer-driven system that permits the buyer to make a conditional purchase offer and further discloses using subsidies to close the deal. Elkine neither alone nor in combination with other prior art teach and suggest the combinations of methods of:

providing by the transaction server information relating to a transaction between the first party and the particular second party to a third party's computer via the wide area network, the information including the bid price associated with the first party and the ask price associated with the particular second party, wherein any interested entity facilitates consummation of the transaction as the third party via the wide area network; and

transmitting a response from the third party's computer to the transaction server after receiving the bid price and the ask price, the response from the third party one of:

a counteroffer wherein the counteroffer covers at least part of a first difference between the bid price and the ask price, wherein

the transaction server transmits the counteroffer to the first party as an ask price; and

an acceptance wherein the acceptance covers the difference between the bid price and the ask price, wherein the transaction server terminates negotiations with one or more second parties for the particular product and completes the transaction.

Elkine fails to provide a dynamic interaction that permits a third party to cover at least a first part of the difference between the bid price and ask price or to issue an acceptance to cover the difference and complete the transaction. Elkine fails to establish dynamic interaction for the buyer to counter a third party counteroffer should it be required and further fails to account for the situation of terminating one or more negotiations associated with the particular product by the buyer.

Non-patent literature search updates on Assignee NexTag failed to produce prior art.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert M. Pond/
Primary Examiner, Art Unit 3625
February 14, 2009